

# San Francisco Bay Conservation and Development Commission

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September 1, 2017

**TO:** All Commissioners and Alternates

**FROM:** Lawrence J. Goldzband, Executive Director (415/352-3653; [larry.goldzband@bcdc.ca.gov](mailto:larry.goldzband@bcdc.ca.gov))  
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**SUBJECT: Draft Minutes of July 20, 2017 Commission Meeting**

1. **Call to Order.** The meeting was called to order by Chair Wasserman at the Bay Area Metro Center, 375 Beale Street, Yerba Buena Room, First Floor, San Francisco, California at 1:08 p.m.

2. **Roll Call.** Present were: Chair Wasserman (departed at 1:54 p.m.), Vice Chair Halsted, Commissioners Addiego, Butt, Chan (represented by Alternate Gilmore), Gibbs, Gioia, Hicks (represented by Alternate Galacatos), McGrath, Nelson, Sartipi, Sears, Showalter, Spering (represented by Alternate Vasquez - arrived at 1:16 p.m.), Techel, Ziegler (represented by Alternate Brush) and Zwissler.

Chair Wasserman announced that a quorum was present.

**Not present were Commissioners:** Santa Clara County (Cortese), Secretary for Resources (DeLaRosa), Department of Finance (Finn), Sonoma County (Gorin), State Lands Commission (Lucchesi), City and County of San Francisco (Peskin), San Mateo County (Pine), Governor (Ranchod, Randolph), Napa County (Wagenknecht).

3. **Public Comment Period.** Chair Wasserman called for public comment on subjects that were not on the agenda.

There were no public speakers present to comment.

Chair Wasserman moved to Approval of the Minutes.

4. **Approval of Minutes of the June 15, 2017 Meeting.** Chair Wasserman asked for a motion and a second to adopt the minutes of June 17, 2017.

**MOTION:** Commissioner Addiego moved approval of the Minutes, seconded by Commissioner Showalter.

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State of California | Edmund G. Brown, Jr. — Governor



**BCDC MINUTES**  
**July 20, 2017**

**VOTE:** The motion carried with a vote of 16-0-1 with Commissioners Addiego, Butt, Gilmore, Gibbs, Gioia, Galacatos, McGrath, Nelson, Sears, Showalter, Vasquez, Techel, Brush, Zwissler, Vice Chair Halsted and Chair Wasserman voting, "YES," no "NO," votes and Commissioner Sartipi abstaining.

5. **Report of the Chair.** Chair Wasserman reported on the following:

a. Chair Wasserman announced: I am going to comment on two items that are on the agenda later. I am going to do it now because I am probably going to have to leave either before we take them up or shortly thereafter. What I will comment on are the proposed amendments to the Bay Plan.

One is to expressly put social equity and environmental justice into the Plan. The second is to amend some issues on Bay fill.

These two measures came out of the Bay Fill Workshops and Commissioner Nelson will talk about them more specifically when we come to the items.

They are both very important for related but independent reasons. What we are asking today is that we start the process which is a somewhat lengthy process.

I had a fair amount of discussion with staff why it takes so long and it's not their fault. It has to do with the way the law is written and the number of public hearings and processes.

We expect these will be the first of several amendments that we are going to need over the next couple of years in order to address rising sea level. I urge you to express your thoughts and concerns and hopefully we will all support these measures.

The breaking of the big iceberg is a very clear indication that our ocean and the land and ice that affect the ocean are changing. They are changing dramatically and they are changing quickly.

We need to do everything we can to increase the public attention to this but to speed up our efforts in figuring out how to adapt to the consequences of those actions.

b. **William Evers.** I am saddened to report the passing of William Evers, a great lawyer and a leader of the early Commission. He served as Commissioner from mid-1967 to 1973 and as BCDC Chair from 1973 to 1975. He also helped form what is now known as the Greenbelt Alliance, the League to Save Lake Tahoe, the Planning and Conservation League and he served as president of SPUR. He was an immensely talented and extremely bright man. I did have the privilege to work with him on a couple of matters. He was a true public servant. He will be missed. We will adjourn today's meeting in his memory.

c. **Commissioner Changes.** Commissioner DeLaRosa is moving on to a new position and while we will miss him, we congratulate him and wish him well in his new endeavor. We will keep you posted.

d. **Next BCDC Meeting.** We will not need to hold our August 3rd meeting. At our August 17<sup>th</sup> meeting, we expect to:

Hold a public hearing and vote on the proposed Crane Cove Park along the Southern San Francisco waterfront.

Hold a public hearing and vote on a mixed-use project in Hercules in Contra Costa County.

Consider a contract to help prepare a work plan to implement our recently adopted Strategic Plan.

Hold a closed session on our litigation with the U.S. Army Corps of Engineers.

Commissioner McGrath spoke: I wanted to give a shout out to the State Lands Commission and, in particular, to Jennifer Lucchesi for something that is a coastal matter of some concern and near and dear to my heart; the imminent termination of the last sand mining operation in Monterey Bay.

I am much more patient now than I used to be. In 1983 my graduate work was on Monterey Bay and the sources of sand from Monterey Bay and I concluded that there was virtually no more sand coming down the Salinas River. Everything that was on the beaches was coming from the erosion of the dunes and you had to erode about four cubic yards of dune to get one cubic yard on the beach.

Fortunately, the Corps of Engineers used that opportunity to deny the two Section 10 permits that operated as drag lines and slowed down the erosion. And thanks to the State Lands Commission and the Coastal Commission the last one finally has a termination date.

From 1983 to 2017 is slow but it bends in the right direction. Without Commissioner Lucchesi it would not have happened. I am most appreciative.

e. **Ex-Parte Communications.** You have the opportunity to disclose any ex-parte communications if you wish to. (No comments were voiced)

f. **Executive Director's Report.** Larry Goldzband is studying adaptation to rising sea level in Alaska. Steve Goldbeck will now present the Executive Director's report.

6. **Report of the Executive Director.** Chief Deputy Director Goldbeck reported: Larry sends his regards from sunny Alaska.

On budget, I am happy to report that we have started the new fiscal year with a "pro forma" of our budget, which we did not have the benefit of at the start of last year, and while we are not awash in cash, we now have a good idea of where we are thanks to our recently hired budget officer Cheneé Williams and our administrative staff.

In terms of staffing, Isaac Pearlman of our planning staff is taking a leave of absence for several months. Luckily, he intends to return to BCDC and we wish him safe journeys.

We also have an intern with us for the summer. Claire Miles graduated with a BS in Earth Systems from Stanford University in 2017 and will commence work on her Masters in Earth Systems this fall, also at Stanford.

Claire applied for a summer internship at BCDC through the “Stanford in Government” fellowship program. She is assisting with implementing the Enforcement Strategy by resolving some of the lower-priority cases that comprise the enforcement backlog and updating and assessing enforcement issues.

These assignments address some of the direction staff received from the Enforcement Committee at its last meeting on March 16, 2017.

On a related note, the BCDC website has been updated to include a revised, electronic enforcement report form to be used by the public as well as by staff when folks notice things that appear to be violations.

I want to give a shout out to Matthew Trujillo and the rest of the enforcement staff who put in all the hard work to make that happen. That concludes my report.

Chair Wasserman announced: We are going to move Item 8 to the end of the agenda. It is a closed session. We will now turn to Item 9.

**7. Consideration of Administrative Matters.** This item was not discussed.

**9. Commission Briefing on the Sea Level Rise Workshops 7, 8 and 9 - Changes to the Commission’s Laws, Policies, Regulations and Practices.** Chair Wasserman announced: Item 9 is a briefing on the last three of our Rising Sea Level Workshops and Lindy Lowe will provide the briefing.

Planning Director Lindy Lowe addressed the Commission: We are wrapping up Commission Workshops 7, 8 and 9, but first I am going to summarize where we have been, beginning with Workshop 1. I will do this so that folks understand that we haven’t left those actions behind. We are still moving forward with those actions.

We would like to hear any Commission or public comment on the overview of the workshops themselves. We will then hear a staff presentation and the Commission will have the opportunity to vote on a Brief Descriptive Notice for a proposed Bay Plan amendment regarding fill for habitat projects and then there will be a separate presentation and Commission vote on the Brief Descriptive Notice for proposed Bay Plan amendment regarding the inclusion of social equity issues in the Bay Plan.

In the workshop series, overall, we started with a five-year review of our climate change policies. We moved into talking about what is regional resilience versus what is local resilience. We then prioritized regional actions through sticker voting. Then the Commission considered the future actions to take and which actions to prioritize. We then voted at the next meeting on the Commission’s sea level rise priorities. We then worked with the participants and the Commission and staff on implementation of those priorities and we developed guiding principles.

We heard from folks that they were concerned that they were not really sure how the Commission is going to move forward on the sea level rise actions; that there was no real framework through which the Commission is going to move forward. In response to this, staff developed guiding principles and presented those to the Commission and participants.

Workshop 6 was the Projects on Parade Workshop where county-scale adaptation efforts were presented at poster stations and then a panel of people who have been working on adaptation around the region. After Workshop 6, we started this workshop series presenting the Bay Fill Policies issues and we presented to the Commission and the workshop participants the myriad of issues that relate to Bay fill at Workshop 7 and then we prioritized those issues at Workshop 8.

Now we are at the actual voting and summarizing of workshops 7, 8, and 9 and moving on to action.

On the screen, you see the actions that the Commission adopted on October 6, 2016; (1) Regional adaptation planning framework; (2) Complete county-scale climate adaptation plans; (3) Explore institutional arrangements; (4) Increase the resilience of regional assets; (5) Modify Commission's laws, policies and regulations and practices; (6) A regional education campaign; (7) A regional data portal; and then (8) Financing the Future.

What you see now is a reminder of the principles that we presented to the Commission almost six months ago. They address: economic vitality, healthy and vibrant ecological systems, community members need for safe and healthy housing and access within their communities to jobs and reliable goods and services, understanding the governance challenges and then the issue of tying the need to mitigate climate impacts through reducing emissions and making it a little bit easier for us to adapt into the future.

Here you see the timeline we developed for the eight actions and the progress of each action and that the staff is not leaving any of those eight actions behind.

Today, we are going to focus on Action 5 which is; Commission's Laws, Policies, Regulations and Practices. It is important to note that several of the eight actions have been amended to better reflect how we are moving forward with them.

Action 8 refers to the Commission Working Group on Financing the Future. Action 7 is the regional data portal, which has been reframed as developing a mapping and data portal to provide BCDC and ART data and map layers and project maps and analysis. That is the part that BCDC will own but whether or not a regional data portal is developed by someone else is not part of this action. The Commission and its staff will participate and assist but will not be developing a regional data portal.

At Workshop 7 we introduced a variety of issues related to Bay Fill and focused in on eight of those issues. At this workshop, participants were able to visit posters. They were able to provide comments, concerns and solutions. We also had a "What's Missing" piece of paper up on the wall to make sure that we did not leave anything behind. Nobody added anything.

At Workshop 7 we also talked about the qualities and features of an ideal future San Francisco Bay and developed word maps.

The eight priority topics that were identified out of Workshop 7: (1) Fill for habitat projects; (2) Green infrastructure for flood protection; (3) Beneficial use of sediment; (4) Fill as protection from flooding such as tide gates, levees and seawalls; (5) Adaptive management; (6) Mitigation in the face of rising tides; (7) Social equity and environmental justice; and (8) regional planning.

This was one of the word maps that were developed out of the exercises that we did asking folks what they wanted to see out of their future Bay. One of the things that we recognize is difficult for workshop participants to do is look at our laws and policies and tell us how to amend them. What is easier for them to do is tell us what they want the future to look like and then we can figure out how the policies need to change in order to reflect that.

These are all of the different word maps. Bay, thankfully, is always prominently displayed.

In Workshop 8 we focused on the actions that we were going to move forward and we developed adaptation actions with the workshop participants.

The participants, including the Commissioners, helped us identify opportunities and challenges of each action, the timeframe for each action, information or other actions as needed and then participants ranked each action.

This is an example of some of the tools we used to get people to discuss the actions. This slide shows the issue of mitigation where people helped us fill in some of the gaps. They identified related actions. They determined the priorities and they said who should be the partners or participants.

Workshop 9 moved on to implementation. We had narrowed in on those actions that would advance first; those issues that were going to be priority to us for the first one to three years. We asked participants to help us identify how to implement the actions.

Our implementation pathways exercise helps the participants in the workshops identify who will lead and who will partner. Obviously, BCDC will lead on the Bay Plan Amendments but we definitely need a lot of partners and want commitments from participants to be partners.

We also received input on the information resources or support that will be needed to initiate and then complete the action and the steps that need to be taken to achieve the action and the desired outcomes.

This is an example of the implementation pathway for the social equity and environmental justice issue, including the Bay Plan Amendment or McAteer-Petris Act action.

One of the things that I want to point out is Column 4, which asks “does the action advance the goals of the region.” These goals include broad regional goals such as affordable housing or access to reliable transportation and participants felt that the actions advanced those regional goals. This is important for BCDC to consider as we move forward as a regional agency - that the actions we are taking are also helping to advance other regional goals and what we are doing is not counter - productive or in conflict to the region moving forward in a resilient way.

The priority issues to address within the next three years are: (1) fill for habitat projects; (2) beneficial use of sediment; (3) mitigation in the face of rising tides; and (4) social equity and environmental justice. Those issues that are important and will be addressed in the next four to seven years, unless we can clear our decks faster are: (1) natural infrastructure for flood protection; (2) fill as protection from flooding, including tide gates, levees and seawalls; (3) adaptive management; and (4) mitigation.

The specific actions we propose to take in the next one to three years on Commission Action 5 (BCDC's laws, policies and procedures) are: (1) to amend the Bay Plan to include social equity and environmental justice and possibly pursue legislation on this issue; (2) amend the Bay Plan to better address fill for habitat projects; (3) develop guidance for local governments to assist with adaptation planning; (4) develop guidance for long-term sustainability for habitat projects; and (5) conduct an economic analysis of ocean disposal versus beneficial reuse.

This slide presents a timeline specific to all of the actions clarifying that we are not leaving anything behind. We are just prioritizing them.

The next steps are: today the Commission consideration of two Brief Descriptive Notices for Bay Plan Amendments. At a future Commission meeting we will brief the Commission on material and guidance developed to assist local governments and others with adaptation planning. We will also brief the Commission on the approach we propose to take on guidance for long-term sustainability for habitat projects. We will present the economic analysis that is developed for question of ocean disposal versus beneficial reuse and we will provide regular briefings regarding other adaptation actions such as the regional adaptation planning framework, financing, education; the other actions that staff are moving forward.

I'd like to thank the Commission and if there are any questions or comments from Commissioners or members of the public we will answer them now.

Chair Wasserman added: Before we start that I would now like Commissioner Nelson to make a few remarks.

Commissioner Nelson commented: This is an important moment. This is the culmination of several years of work. Our working group has had more than a dozen briefings over two years. That work was informed by the Policies For a Rising Bay workgroup and all of the workshops that Lindy just walked through.

I want to thank the staff. Our staff is small in number but they have been tremendously effective in helping push this process. I will confess that I was a little skeptical coming into our last workshop which I mentioned to staff about two things and the results exceeded my expectations in both areas.

First is, I just wasn't sure that the last discussion really starting to dive into the issues we are discussing today was going to really push the discussion. I was wrong there. Not only was there a good discussion on those issues but by the time the last workshops were done, you all – the participants in that session had really produced an outline of the documents we are seeing today advancing the priority issues we are going to be talking about in a moment.

I was really pleased with the quality and the level of the depth of the discussions and the broad agreement. We are going to find some thorny issues as we work our way through each of these policy areas. I was really pleased with the broad agreement that we have had in terms of the importance of these issues and the help that you all provided in helping us think through prioritizing.

One of the directions we got from one of our workshops was that we needed to do everything immediately and we all agree that we can't do that. We have to prioritize so that we figure out what to move forward with in a way that allows us to do a good job on the right issues now and then move forward to the next issues. This process was very helpful to help us think through those issues.

One of the things that we noticed was that there are issues that are really getting ready to breathe down our necks where we are going to be faced with challenging decisions in the next couple of years. There are some other issues where we know we are going to face challenging issues but we've got a few years to get ready for those. That discussion about timing in addition to the discussion about importance has been really helpful in helping us think through how to prioritize this.

The other way in which I was a little frustrated and confused coming into the last workshop was that I really felt like I was losing the thread of where these policy changes fit in the overall framework of what the Commission is doing regarding sea level rise. The staff did a great job at the last meeting of where these policy changes fit in the context of everything that we are doing and that presentation was helpful because it helped me understand why I was losing the thread. I was losing the thread because we are doing a lot to address this challenge.

Finally, I want to thank our Chair for his impatience. Working on a lot of fronts we are getting a lot done. We all wish we could move faster but we are moving as expeditiously as we can and produce the results that we need making sure we have the opportunities for public input that is essential to a quality and a product that has broad community support.

With that I would like to ask if any of my fellow work group members have anything to add.

Commissioner Gioia chimed in: You summarized it well. I want to say that one of the areas where we are going to continue to have more discussion is the jurisdiction issue. We talked about that but there has been no recommendation to change it. I want to be realistic. I think everything we have here moving forward in recommendations makes total sense. We are going to need to grapple with the jurisdiction issue at some point in the near future because regional issues require regional action and while we have limited jurisdiction on the shoreline band and we are providing a lot of guidance to local cities and counties; we'll see how thorough cities and counties are in implementing that guidance and then following through as a region.

This Commission was established back in the 1960s because local cities and counties were filling the Bay and we needed regional authority to prevent that from happening; we may very well need the appropriate regional authority to address sea level rise in a way that is more robust than the authority we currently have.



I want to be honest about it because we have avoided talking about the details pertaining to this because there is always resistance. We are going to have to face it sooner rather than later.

Chair Wasserman commented: I agree. We will have to deal with that with these amendments and the further workshops and in particular the drafting of the regional plan to adapt to rising sea level are going to be very important elements in determining where and how we think we need to change our jurisdiction as well as what those specific changes would be.

Commissioner McGrath was recognized: I have had the luck to work for 41 years on protecting and restoring wetlands. I've had even more luck in maintaining some of my mentors for that whole period of time. About every three months I have lunch with Joe Bodovitz and Phyllis Faber and about every three months Phyllis says, Jim, when are you going to let me put sediment in Muzzy Marsh? It is eroding away. And every three months I tell her, I am working on it. This time I think she is finally going to be happy with me.

Chair Wasserman announced: We have two public speakers on this item. David Lewis is the first speaker.

Mr. Lewis addressed the Commission: I am the Executive Director of Save the Bay. I want to associate myself with all the remarks that have been made. I want to thank Commissioner Nelson for leading the group and for the staff that has done all of this work. It has been methodical and you have had a really strong base to work from. You have a lot of knowledge among everyone who has participated.

The drawback is that it takes a long time. I am here to encourage you to be ambitious and a little more impatient on the next phase of this work.

I have no quarrel with the prioritization but everything needs to be done more quickly within the limits of the law with things like Bay Plan amendments. If that requires more resources then you need to ask for them and you need to ask us supporters of the Commission to help you get those resources if that is really the crunch point.

I definitely agree with Commissioner Gioia that the jurisdiction issue is important to take up sooner. And in particular, if you are contemplating a possibility of changes to the McAteer-Petris Act for anything and it is identified on the issue of social justice; we would strongly recommend that when that is going to be opened up for discussion you know everything that you want to change and do it once and not try to go through that experience more than once because there will be people who are interested in changes in the McAteer-Petris Act that are not to the benefit of the Commission or the Bay.

There are a couple of things that happen when you move more slowly and things get stretched out. First of all, it undercuts the urgency of the issue and we all know how urgent it is. It also does not recognize how much discussion has already taken place.

And now that you have a body of Commissioners who are informed and educated it's important to have this group tackle and finish some of this work before the personnel changes. The longer a process gets stretched out the more the stakeholders turn over and that makes it very difficult at the end to finish what you started at the beginning.

There is also a risk of a perception that things are being stretched out to make work. I know that this is not true but others do not.

The two amendments that you are proposing to get started on which we support starting that process; the first of those on Bay fill is needed immediately if not sooner for permits for actual projects that need to be evaluated with the best wisdom of the Commission.

On social justice, it is a very important issue but I'm concerned that the goals of what you are trying to achieve by addressing social justice have not been articulated. I don't mean the regional goals that there should be more social justice in the region but when you are finished with the Bay Plan Amendment or McAteer-Petris changes on social justice what additional social justice will be achieved or facilitated?

If you don't address that then those of us who are working in those areas could see it as a token effort, as a lip-service effort. We really ought to address social justice because it is a gap to not address it. I encourage you to try to be as specific as possible on those goals.

Ms. Beth Huning spoke: I am the Coordinator of the San Francisco Bay Joint Venture. I want to recognize that the joint venture is a partnership of different, agencies, organizations, the land-owning community, the business community and the environmental community that come together to protect, restore and enhance wetlands throughout the region, particularly here in the Bay.

BCDC was one of our founding members 20 years ago and has been an active partner in participation on our working committees and management boards ever since. We try to work collaboratively with BCDC staff and the Commission in order to achieve our mutual goals.

Our goals are based upon the Habitat Baylands Habitat Goals of 1999. We've adopted the update in 2015 for climate change and are really trying to be the people on the ground that are delivering these projects and making them happen.

We also support the subtidal goals. We have established our own implementation plan about how to get this work done. We are encouraged to see that BCDC is considering amendments and want to ensure that they are helping their partners achieve these goals and are not throwing up additional roadblocks.

One of the things that we do want to emphasize is the importance of getting these projects done in a timely way. The Baylands Goals update of 2015 indicated that in order to keep pace with sea level rise it was necessary to accelerate the pace of restoration and deliver as many habitat projects as possible within the next 20 to 30 years and 15 years if at all possible.

It is really important that as these amendments take place that we consider getting any policy changes in place as quickly as possible that can enhance and make the delivery of these projects feasible sooner than later and not put additional regulatory burdens on the partners.

One of the things that we want to encourage BCDC to do is empower our subject-matter experts, our project-design experts to deliver on these goals as soon as possible and not throw up additional regulatory hurdles or other design/review practices.

We've got within the partnership a wide range of scientific and habitat-delivery expertise and we encourage to call on our partners and utilize them.

We also request that required monitoring not be an additional burden but that it be cost-effective and contribute data that can lead to adaptive management of a particular project and then be able to assess the overall species' response to restoration as well as to help us track net landscape change and the changes that have been going on within the environment.

We recognize that public access is very important to BCDC's programmatic policies. We want to recognize some public access as sea level rises may need to move and as you are revising your policies we want you to think about habitat and putting public access in appropriate places and recognize that it may not be permanent and it may need to move.

We also want to thank you and the Commission for considering sea level rise and taking up this particular amendment. We encourage the staff and the Commission to work with the Joint Venture Partnership in order to craft amendments or any legislative changes that can help deliver of these goals sooner rather than later. Thank you.

Ms. Margaret Segart provided public comment: I want to give you a little bit of information about the history of Richardson Bay. Richardson Bay's earliest maps show that the upper Bay was declared a habitat area for conservation.

We should not lose track of the Richardson Bay Special Area Plan nor should we be modifying that in order to place the seawalls, tidal gates and other things that will enable a more urban contour on the southern shores of Richardson Bay.

An important aspect of Richardson Bay recently has been the incorporation of this estuary in the Ramsar Convention. Richardson Bay should be retained as a natural habitat. The problem that we might have is someone misrepresenting Richardson Bay by saying we need to change, we shouldn't have regulatory rulings, that we should not have project designs reviewed by the community; these kinds of things may deter the overall goal of maintaining this very important resource that we have at Richardson's Bay. Thank you very much.

Mr. Joe Buhr was recognized: I am with the San Francisco Airport. SFO has participated in many of these workshops and we appreciate the effort that BCDC has gone through to get public input from all the stakeholders.

SFO is very supportive of green solutions where appropriate but we would like to make a statement that not all solutions will be green and some entities like SFO may have other solutions that we would like to make sure are considered as you move forward with changes in requirements and legislation. Thank you.

Ms. Rachele Trigueros addressed the Commission: I am a Policy Manager with the Bay Area Council. The Bay Area Council supports the proposed action for BCDC staff to begin the public process to explore policy changes in these areas, however, I would like to reiterate some of the comments that we caution the Commission to consider the urgency of climate change and require that any actions taken by BCDC to be in the service of expediting project approvals rather than delaying them.

We are all aware that the latest research shows that seas are rising faster than we thought and time is not on our side.

We need to ensure that Measure AA funds get projects in the ground as fast as possible. That is why the Bay Area Council is partnering with the Silicon Valley Leadership Group to work with the permitting agencies and permittees to expedite and coordinate restoration projects.

We can spend valuable years studying the tangential effects of adaption strategies or we can be nimble and innovative. We urge BCDC to commit to the latter. Any processes or policies that complicate delay or materially increase project costs will lead to residences and businesses being vulnerable to sea level rise and our next mega-storm. Thank you.

Commissioner Gioia said: I want to make sure I heard the intent because sometimes if we require a project to address sea level rise; that may come at a cost. Frankly, if we don't, there could be a negative effect on another business that is building somewhere else on the shoreline that is being impacted by another business that didn't take adequate precautions for sea level rise.

You can't look at it just from each project because, as a whole, the goal is trying to fairly and equitably figure out how to apportion costs when addressing sea level rise because there is not a wall at every city and county boundary. What one city or county does impacts developments in another city or county; that's why we need this regional action.

I take it that your intent is that there is going to be a process here that may actually require more than what a developer would be willing to do if they weren't addressing sea level rise.

Ms. Trigueros explained: We support a regional strategy for sea level rise. I don't want my comments to be misconstrued as support for a project-by-project approach. We look at adaptation in the Bay as a regional effort. We are saying that any policies, any amendments to the McAteer-Petris Act and BCDC policies should not add additional time.

We understand that these other considerations are important.

Commissioner Gioia added: That is the goal is to try to do these complicated things in ways that won't take additional time but I don't know that there is ever a guarantee. That is always our goal.

Ms. Trigueros continued: So that is all we are encouraging is to look through the lens of expediting this process.

Acting Chair Halsted announced: Chair Wasserman had to leave therefore I am taking on his role as Vice Chair. Is there anyone else who had public comment on this matter? (No further comment was received)

Commissioners, do you have any further questions? (No further questions were voiced)

**10. Public Hearing and Possible Vote on Issuing a Brief Descriptive Notice for Proposed San Francisco Bay Plan Amendments Regarding Fill for Habitat Projects.** Acting Chair Halsted announced: Item 10 is a public hearing and possible vote on whether to initiate the process of considering a proposed amendment to the San Francisco Bay Plan, regarding fill for habitat projects. Brenda Goeden will present the staff report on this item.

Sediment Program Manager Goeden presented the following: Before I move to the agenda item, I am going to give us an overview of the Bay Plan Amendment process. The last time we amended the Bay Plan was in 2011. It is always helpful to remember what the process is before we get started. I will then move on to the Brief Descriptive Notice presentation for fill for habitat projects.

The San Francisco Bay Plan Amendment process is laid out in three different areas of the Commission's law and policy. First, in the McAteer-Petris Act Section 66652 tells us how we should do Bay Plan amendments. Similar language is found in the San Francisco Bay Plan. Lastly, it is also found in the California Code of Regulations Chapter 10, Article 1, Sections 11001 through 11007, where the language becomes fairly specific. This is a brief description of what the laws and policies tell us.

The first step in the process is that the staff prepares a proposed Brief Descriptive Notice, which is what we have developed for you today. The Commission votes to adopt it or not. The law requires that this happen a minimum of 30 days prior to the initial public hearing on the proposed amendment. After today's vote, staff will take a step back and prepare an analysis and report on the proposed changes. That report needs to include background information on the proposed changes, description or statement of effects, statement of consistency, an environmental assessment, comments and response summaries, a description of changes to water-oriented uses or boundaries if there are any, and the staff recommendation. Once that report is prepared it has to be mailed out to the Commission, several responsible agencies, the participants and the stakeholders, and the Commission holds an initial public hearing.

At the public hearing, we discuss the findings of the report and the brief recommendations, and then the Commission and the public is allowed to comment and provide thoughts on the work that has been done. After the hearing, the staff prepares the recommendation, which is the specific language and includes comments and responses heard during public hearings. Staff mails the recommendation out to the Commission, responsible agencies and the interested stakeholders, and the public. After that sufficient noticing the Commission votes at a scheduled and noticed hearing.

It takes a two-thirds affirmative vote to pass a Bay Plan amendment which is a little different than our permit process. By law, this vote cannot happen less than 90 days after the notice of the public hearing. If the Commission votes to approve the Bay Plan amendment, then the Office of Administrative Law review begins, they make sure that the policies and findings are consistent with the State of California law. The Office of Coastal Management and also

NOAA do a review to make sure that the policies and findings are appropriate under the Coastal Zone Management Act. After Office of Administrative Law has completed the review, staff can use the Bay Plan Policies in its permits but it can't use them for federal consistency until the Office of Coastal Management has approved them. Once the Office of Coastal Management has approved the policies, we can then use those policies for federal consistency projects.

That is the end of the process. At this point, I'd like to answer any questions on the process. Commissioner Showalter inquired: So what is the expected schedule? If the minimum is 90 days how long do you expect it to take this time? Ms. Goeden replied: The minimum is 90 days between the initial hearing and the vote. There has to be time allotted for staff work. Currently we are looking at one year as the shortest timeframe in which we can accomplish this amendment. We are hoping to be before you with the initial public hearing in May of 2018 and then August would be the vote. Acting Chair Halsted asked: When does the language need to be final? When is the latest in the process that the language needs to be final? Ms. Goeden explained: I believe that is prior to the Commission's vote. Chief Deputy Director Goldbeck added: You have to mail the staff recommendation a week in advance of the Commission meeting, just like for a permit matter. The Commission may change the language at the meeting and prior to the vote if agreement can be reached at the meeting.

Ms. Goeden continued: I will move now to the proposed Bay Plan Amendment's Brief Descriptive Notice. As you are aware we are looking to propose a Bay Plan amendment for fill for habitat projects. The Brief Descriptive Notice it describes a few of the policies we have identified as potentially needing amendment.

Over the Bay's history, during its development, and BCDC existence, the Bay has faced three very significant issues that drive the future of the Bay's ecosystem. First was the loss of historic Bay wetlands across the system due to diking and dredging and their development for homes, industry, and agriculture. The second is a decline in sediment supply from the Delta and local tributaries as we sought to control flooding within our region, and to supply water to different parts of California. The third is climate change resulting in rising Bay waters.

Two of these three issues have come to pass since the drafting of the McAteer-Petris Act and the Bay Plan. The McAteer-Petris Act and the Bay Plan seek to minimize the fill in the Bay for reasons that you are aware of. However, in our current circumstance now and in the foreseeable future the remaining Bay wetlands, shoreline and beaches and those proposed for restoration or in process of being restored may need assistance for adapting to sea level rise, and fill may be a significant part of the solution to support Bay habitats adaptation occurs.

To this end the Commission has held several workshops focused on sea level rise and fill in the past year. The participants and staff have identified the potential need to amend several of the Bay Plan policies regarding fill for habitat projects and these include the natural resource policies, specifically Fish, Other Aquatic Organisms and Wildlife, Tidal Marsh and Tidal Flats, Subtidal Areas, and in addition, the Dredging policies. These policies contain language that include an additional burden of limiting projects to "a minor amount of fill for habitat" beyond that required by the McAteer-Petris Act requirements, which is the "the minimum amount of fill necessary for a project," along with other fill tests.

This language adds an additional burden that limits habitat projects in their ability to adapt to sea level rise and sediment supply decline. Staff believes these policies should be analyzed and amended if necessary. Two significant examples of work that supports this concept have been mentioned today. One is the Baylands Habitat Goals Project, and the other is Measure AA that was passed last year, supporting habitat restoration projects.

Similarly, the shoreline protection policies may limit adaptation measures along the shoreline, specifically for green infrastructure projects such as living shorelines, and focus more on the hardened infrastructure. So, these policies may also require amendment. Lastly, staff would also like the ability to review the public access policies in relationship to sea level rise, and whether or not required public access needs to be moved inland or up over time, strategies to adapt these project features, and how wildlife would be considered in that regard.

These are the proposed changes supported by the Bay Fill Working Group and the Policies for a Rising Bay Project as well as the participants in the last three Commission workshops. To that end the staff recommends that the Commission adopt the Brief Descriptive Notice to initiate the process to consider a possible amendment to the San Francisco Bay Plan that would address issues related to rising sea level and habitat projects by updating findings and policies in several sections of the Bay Plan including: Fish, Other Aquatic Organisms and Wildlife; Tidal Marsh and Tidal Flats; Subtidal Areas; Dredging; Protection of the Shoreline; and potentially the Public Access policies. We would also like to propose the first initial public hearing to be May 3, 2018 to consider the proposed amendment.

Acting Chair Halsted announced: We will open the public hearing and we have four speakers that have submitted cards.

Mr. Matt Gearhart of the State Coastal Conservancy addressed the Commission: I wanted to reiterate some of the points we made in a letter we sent to you. We have essentially the same comments that have already been made pertaining to urgency and expedience in terms of getting both of the amendments together and approved as soon as possible. We are very supportive of the idea of kicking off this process as well as the social justice elements you are going to consider next. In particular, we have a lot of investment in the region in terms of wetlands restoration and many partnerships that are trying to move forward right now. I want to highlight the Baylands Goals Update that we helped convene and reconvene the original group to specifically consider climate change and to focus on two areas that you will be looking at in this fill policy amendment. One is this challenge that sites that we thought would be able to be restored in a more natural way will need additional assistance in fill and sedimentation. This will be one of the key elements to that. We don't have all the information to know exactly where that sediment needs to go and when but we are working on that. But we don't have the time. The specific number that is mentioned in our letter, 2030, is the scientific community's best estimate of when we really need to have this effort accomplished. We need these projects working and underway for the region to have the best chance. When you think about that being only 13 years from now and you think about it takes to actually get past permitting, into construction; it means we really need to be having these things on the ground and moving

soon. We also have an unprecedented opportunity with Measure AA funds and commitments, and many of us are involved with implementing that. We are hoping that this project will result in a great acceleration. There is a lot of opportunity to help speed projects along and make sure then that we are learning from them for the next stage. Thank you.

Ms. Beth Huning commented: I would like to reiterate Matt's point about the urgency and timing. You've laid out a very comprehensive process and a number of us have participated in this process over the last couple of years. Although there are some legal requirements about notifications and timing we would like to encourage you to accelerate your process in order to address these amendments as soon as possible. Also, it is really important that we accelerate the pace of restoration. Natural sediment cannot keep up with the need for rising marshes as sea levels rise. What we want to do is to encourage the Commission to make regulatory changes for the beneficial reuse of sediment in multiple ways as soon as possible while still precluding fill that would be detrimental to the environment. We really want to encourage your internal process in terms of making certain that we move quickly and then we also want to encourage the use of beneficial dredge material and other sediment material to make that as available to marshes as soon as possible also. This has been studied and we want to encourage that you move forward.

**MOTION:** Commissioner Addiego moved to close the public hearing, seconded by Commissioner McGrath. The motion carried by a voice vote with no abstentions or objections.

Commissioner Nelson commented: I have a quick comment about why this is appropriate as one of our early actions. There is an extra burden on habitat restoration projects in the form of the requirement for a minor amount of fill in projects. That is not just a theoretical impediment, we have already bumped up against it. We recently considered a project in Sonoma Creek where we asked the Fish and Wildlife Service to reduce the amount that they had requested in order to lay the groundwork for habitat migration to address sea level rise issues and staff felt that the original permit proposal was really pushing the envelope in terms of our existing minor amount of fill policy requirement for habitat. So, there is some tension there. Our philosophy in the past with habitat in the tidal portions of the Bay have generally been, let's try to have as light a hand as possible on the habitat. We've done a lot of work in restoring Baylands to tidal action but once those Baylands have been restored to tidal actions we've tried to have a pretty hands-off approach. I think that has been the right policy for a long time. There are a number of examples that show that this policy is going to constrain us and not just in the future, we've already seen it constrain us when Fish and Wildlife came in with a proposal designed to address the sea level rise impacts on habitat. That shows why it is important for this to be one of our early actions and then finally, it is important to note that one of the things we found challenging was to draw a line and we found that we could not draw a line between habitat restoration projects and flood management projects. We had long debates about lumping and splitting and where those lines are but the truth is there isn't an objectively perfect line between these habitat restoration projects and flood management projects. And Prop AA and the salt pond projects are the best example of that. But it is also important to note that the investments we make here in habitat resiliency frequently come with flood management benefits as well. This is extremely appropriate to be one of our early action items.



Commissioner Showalter spoke: I am going to echo a few things that Commissioner Nelson said. It is really important as we evaluate these policy changes and that we test them against the large projects where we know they are so applicable. I'm sure you have thought of that but I just wanted it to be said on the record, particularly in regard to the South Bay Salt Pond Project. We know that it needs a tremendous amount of sediment and thinking through how our current policies are problematic there and making sure that those changes are made will help you in framing and how to go through that. When I was with the Santa Clara Water District, working on restoring the South Bay Salt Ponds was a huge, important project for me. In that instance, habitat restoration and flood protection are exactly the same thing. In this case I am really happy to see that we are moving forward with this habitat restoration policy change and evaluation because it also informs the policy changes that need to be made for flood protection, which we've outlined as tide gates and levees and that sort of thing and also naturalistic flood protection. Many times, the parlance between habitat restoration and naturalistic flood protection are pretty hard to distinguish. By choosing to do this one we are really getting started in a very robust way on these other categories as well which doesn't come too soon.

Commissioner Zwissler commented: Several of the speakers have mentioned their concerns about how long this is taking. I wanted to hear from the staff why it's going to take a year to get to where we want to be. I also heard an offer of resources. Can you help the public and we understand this?

Ms. Goeden replied: There are a couple of things and one of them is resources. You have a staff of 42 people and a third of that is administration and you cut that down in half and you have planners who are doing an awful lot of work in the community right now with Adapting to Rising Tides Program. We hardly ever see them because they are doing so much work in the community, which is what you've asked them to do. That leaves your permit analysts and a couple of planners. And the permit analysts are working very hard to keep up with the massive number of permits that we have coming through the office every day and keeping the projects moving while we work on how we amend the Bay Plan. We don't have enough staff to do things really quickly. I know that our management has been working with Finance to help improve that situation but we are a state agency and so we have the resources we have until the Governor says we have more. The other part of the issue is the more technical. We do need to write a report and we need to gather information. The Baylands Habitat Goals is a fabulous document that will be very helpful as information to go into that report as will the Subtidal Goals Project and other scientific information. The staff still has to synthesize the latest scientific information, develop the potential language, propose different language alternatives and examine them, look at effects of the alternatives, and bring them to the public for comment. We don't want to repeat a situation which we had a few years ago where we didn't have enough public participation and therefore ran into problems when we got to the amendment process itself. We need time to do that work. We are planning on doing it as quickly as possible but we are resource limited. We need to have time for the Commission and the public to be able to review it which is why we have the 90 days required in the law. It is a reasonable amount of time for people to review and comment.

Commissioner Zwissler continued with a hypothetical: If you had the additional resources how much faster would it be? Ms. Lindy Lowe answered: I think one thing to remember is that there are four months of just process built into this. If there was no staff required to do any work at all and it was all done it would be four months of process built in with the 90 days and the 30 day noticing requirements. And then there is the Office of Administrative Law process. We can't implement the policies until they have taken action on those. That is a five-month process. That makes it pretty difficult. We are starting much further ahead than we would be had we not had this workshop series, had we not had the Bay Fill Policies Working Group or the Policies for a Rising Bay Project or the Adapting to Rising Tides Program. So, we are really way ahead of the game. If we can get this done faster we absolutely will. We will get it done as quickly as we possibly can because we would like to move on to other things. We don't want to spend any more time than we have to but we also need to recognize that we are talking about opening up a decent amount of the Bay Plan in this amendment. Everybody is saying, let's get this done now and let's get this happening but when we are sitting in our meetings with everybody, we're going to be grappling with actual language. We don't want to bring the proposed amendment to the Commission before we have some consensus amongst the people we need to find consensus with, and agreement that we are going in the right direction. If it is faster than May 3rd, we can amend the public noticing to February earlier. I don't want to amend the notice until August or later. So, it definitely is in our interest to get this moving. We are fully committed and I don't think it takes us that long to do the work that we are doing. I am excited to hear that people want action; so, do we.

Commissioner McGrath commented: I am excited to be here. I urge you all to vote in favor of this. There are systems right now and Cullinan Ranch comes to mind where we could put fill in it before it was open to the tides but not now. I am also gratified by the comments of the sense of urgency and the lack of opposition. I agree with those with a sense of caution having done this on my own. There is an old saying in engineering; there never is enough time to do it right but always time to do it again. (Laughter) We need to develop a consensus. The fact that there is a sense of urgency among the proponents is very gratifying to me and I hope you hear that. I'm sure the staff will go as fast as possible recognizing the need to develop that consensus that will make this actually happen. I urge you all to vote in favor of it.

**MOTION:** Commissioner McGrath moved approval of staff recommendation, seconded by Commissioner Showalter.

Mr. Goldbeck asked: Does that motion include the date of the May 3, 2018 public hearing? Commissioner McGrath answered: Recognizing that it might be amended but that is not required to be determinative at this point. Mr. Goldbeck explained: The regulations require that you adopt a date for the public hearing. It can later be changed. Acting Chair Halsted asked: Do the maker and seconder agree? (Both nodded in the affirmative) Is there further discussion? (No further comments were voiced)

**VOTE:** The motion carried with a vote of 14-0-2 with Commissioners Addiego, Butt, Gilmore, Gibbs, Gioia, McGrath, Nelson, Sartipi, Sears, Showalter, Vasquez, Techel, Zwissler and Acting Chair Halsted voting, "YES," no "NO," votes and Commissioners Galacatos and Brush abstaining.

**11. Public Hearing and Possible Vote on issuing a Brief Descriptive Notice for Proposed San Francisco Bay Amendments to Include Social Equity Policies.** Acting Chair Halsted stated: Item 11 is a public hearing and possible vote on whether to initiate the process of considering a proposed amendment to the San Francisco Bay Plan to include social equity policies. Miriam Torres will present the staff report on this item.

Planner Miriam Torres presented the following: Before you are the Brief Descriptive Notice to initiate the amendment process to include social equity and environmental justice in the San Francisco Bay Plan and to conduct a complete analysis of the need to amend the McAteer-Petris Act for the same topic.

I will explain why environmental justice and social equity is a timely issue considering sea level rise. I will also explain the policy gaps in the Bay Plan and why this is even before you.

I am going to start with a little bit of background on how we arrived at this recommendation. I will also be providing some overview of the definitions that we are using. I will show some maps of disadvantaged communities because some people are not aware of which communities are going to be affected by sea level rise. And finally, I am going to talk about the policy gaps.

We had a stakeholder process for the last two years with a lot of different groups as part of the policies for A Rising Bay Project and I want to thank all the members who are here today for going through that process with us.

Also, the Adapting to Rising Tides Program has engaged a lot of communities throughout the Bay. I wanted to also mention that in addition to all of the Commission workshops we also did a lot of internal learning at BCDC holding half a dozen workshops and meetings with staff to learn about environmental justice, to hear from the environmental justice communities and further our learning as to how our policies are lacking in this regard.

We are using the environmental justice definition in state law and that is; the fair treatment and meaningful involvement of all people regardless of race, color, national origin or income with respect to the development, implementation and enforcement of environmental laws, regulations and policies.

We are a state agency so it makes sense to use a state definition.

With regard to social equity I want to clarify that promoting social equity involves providing fair access to the services the agencies provide by accounting for the unique needs of community members and communities.

This graphic shows how equality and equity are a little bit different. Here the height represents obstacles or disadvantages that a community or community member may have in accessing the apple or certain opportunities. Some extra boxes or crates may be needed to help them access those same opportunities that are accessible to all.

In BCDC's case, we promote equitable access to the shoreline. We have done this since 1965 when only four miles of the shoreline were accessible to the public and now we have over 300 miles that are accessible to the public. However, to ensure that we, in fact, create that fair access to the shoreline we have to account for the unique needs of the community.

And also, now with sea level rise, we need to consider the unique characteristics that make a community more vulnerable to sea level rise.

So, what do I mean by disadvantaged community? We have a definition in state law for this. A disadvantaged community may include but is not limited to areas disproportionately affected by environmental pollution and other hazards that can lead to negative public health effects, exposure or environmental degradation, areas with concentrations of people that are low income, high unemployment, low levels of home ownership, high rent burden, sensitive populations or low levels of educational attainment.

Through the Adapting to Rising Tides Program we have developed a screening tool that is consistent with this definition but offers a more granular level of analysis tailored to identify the communities that will be exposed to sea level rise.

This screening tool was developed through a collaborative process with ABAG, the Stronger Housing Safer Communities Project, and it highlights 10 indicators. These 10 indicators were selected also through a collaborative process.

As you can see the indicators are: access to a vehicle, housing costs, race and ethnicity, education, housing tenure, transportation costs, cost burden, income and age. All these are important indicators when determining the specific vulnerability of a community.

So, using this information the ART Program has mapped communities that will be impacted by shoreline flooding due to climate change and rising sea level around the Bay.

I'm going to show you six maps. Certainly, they are not all the communities that will be affected. These maps show three to four of these indicators in yellow. You also see five to six indicators is a darker yellow and then seven or more indicators is the red.

This is West Oakland and you can see that some of the communities will be affected by as little as 12 inches of sea level rise. That is similar to a probability of flooding occurring every year.

We also are looking at 66 inches of sea level rise. We have West Oakland, Bay View Hunter's Point, East Palo Alto, the Canal District, Vallejo, and Richmond. This illustrates the extent of the impact throughout the Bay.

What we've learned through this collaborative process is that communities have a number of concerns. One of those concerns is the disproportionate risk of exposure to hazardous or toxic substances mobilized by flooding because communities are near landfills and brown fields or when sewage and treatment systems are overwhelmed.

They are also at greater risk of loss of public access and recreational spaces.

Another issue is that decision making and community participation in projects that protect the community or the region or other shoreline projects that may have an impact on a community is a concern because communities may not be involved in those decision-making processes.

I am going to give you three examples of how our policies and practices need to be improved to address the unique needs of disadvantaged communities.

One of them is public access. When an analyst is negotiating public access with an applicant, the analyst currently does not require the applicant to provide information about the current or future users of that site. I am talking specifically about demographic information; asking them to provide that analysis.

There is no language in the Bay Plan to guide the analyst to ask for this information or to provide the justification to get this information.

For example, if a project is located in a disadvantaged community where the majority of the population speaks Spanish it would make sense that our signage or the signage that the Commission requires is in Spanish. However, this is not the case. Here are some examples of our approved signage and as you can see they are a little bit complicated to figure out if you don't speak the language. (The signs were in English)

To ensure that everyone has equal access to the shoreline and this is one of our goals as an agency. Then the Bay Plan needs to have guidance on language access and our approved signage needs to reflect that guidance.

Another gap is about unintended consequences of shoreline armoring. We know that shoreline protection projects could have adverse impacts on the environment and neighboring communities. This is something that was brought up earlier and it has come up a lot through our stakeholder process. One of the concerns is that disadvantaged communities may be the last to be protected and to get shoreline protection.

As that happens, and as other communities are erecting their shoreline protection projects, flooding may be exacerbated in an unintentional manner in neighboring communities.

Currently the analyst does not have the ability to require the applicant to assess impacts of shoreline protection on its neighbors.

This is not going to be only an issue for disadvantaged communities but the key issue here is that greater inequities could result because these communities are traditionally not involved in these decision-making processes.

One of the goals would be to have a legal basis to conduct an equity analysis of shoreline protection projects to ensure that there are no disproportionate impacts on disadvantaged communities.

Another policy gap is regarding public participation. This is a survey of 1200 residences conducted by the Coastal Conservancy which shows that the majority of Latino/Hispanic residences wish there were more things to do at the coast. This is very different than other ethnic groups.

The differences are very interesting. The takeaway here is that the opinion of this group is very different than the other groups. It would certainly be very different than what a planner might come up with from their office without talking with communities. We know that planners usually do not reflect the community.

We already have a policy that says we should accommodate a broad range of water-oriented recreational activities for people of all races, cultures, ages and income levels. That is Recreation Policy 1.

However, we do not have the policies that help us understand whether the types of activities that are planned are, in fact, meeting the mandate of Recreation Policy 1.

As mentioned before we do not ask applicants who are the users. I am talking about providing numbers and demographic information. And we should also be asking, what do the users want along their shoreline?

We do accept any and all planning processes that the applicant has done, including the failure to do a planning process. Some local jurisdictions have local requirements.

Some applicants have come to us without having done a public planning process. There are enough of them that we are talking about them here today.

As we see more public spaces flooded like this playground it is important that we have a better understanding of community needs. If this playground is one of two in a densely populated community then the children may really need this playground. It is important to understand community needs to make an informed determination of whether a playground should go, stay or be relocated.

To ensure that we meet our goals as a coastal management agency around public participation, this is something that we have identified.

The recommendation that we have before you are to adopt the descriptive notice to initiate the process of considering a possible amendment to the San Francisco Bay Plan that would address social equity and environmental justice by updating the findings and policies in several sections of the Bay Plan including public access, mitigation, shoreline protection and by adding a new environmental justice section with findings and policies.

Number Two is to direct staff to explore whether to pursue an amendment to the McAteer-Petris Act or other statutes that would provide the Commission with explicit authority to consider environmental justice in its decision-making process.

And three is to schedule a public hearing on May 3, 2018 to consider the staff findings and recommendations regarding social equity and environmental justice. Thank you.

Acting Chair Halsted announced: Now we will open the public hearing and I believe we have two cards. First would be Sheridan Noelani Enomoto.

Ms. Enomoto addressed the Commission: Good afternoon and aloha. I am here representing one of the groups that Miriam pointed out in the workshops for action for health and environmental justice. I am also a native Hawaiian and African American and I come from a culture that is very familiar in discussions about water.

I am here today because there are a lot of amazing points that have been discussed. In considering the amendments for the Bay and the Plan and the decision-making process that all of us think about the way water would think.

Water is all inclusive and it does not discriminate. Water when it rises and moves it does not consider whether or not a new resident has moved into Bay View which is considered a federal Superfund site. It does not think about whether or not you are in public housing in the area of Rodeo next to an oil refinery.

It doesn't matter if you have been in an area near the waterfront for generations, if you are a subsistence fisher; it does not think about those things. We know from our past history and experience that we are the ones that end up discriminating and not being inclusive and not considering all the communities that are affected when there is sea level rise.

I am just reminding all of us to start thinking about when we are making these decisions whether it is habitat or for environmental justice and social equity that we remember to think like water.

Water has its own time but we need to make sure that we are on time. Thank you very much. I am grateful to be here today.

Ms. Zegart was recognized: I live in an area that is rapidly becoming affluent. Before it was large lots and small homes and before that it was farming areas.

You should remember to not place rapid approval on projects before you right now because it is more expeditious. You should not approve levees, seawalls and tidal gates before you have all the recommendations of social equity in place.

Those you are able to have groups working for development perhaps are not aware of the impact that would occur to low-income areas or for people who have not language capabilities.

I truly hope that you do this right and reasonably and that you follow an example that you have been given so you don't need to know if it's legally possible any longer.

You have the coastal action of A.B. 2616 (Burke) which sends a signal to you that you can do it and that it isn't something that is outside the availability of the McAteer-Petris Act.

Equity and fairness are not the same. Don't say we were fair to people because we informed them that there was an opportunity to have equity but you must take an aggressive stance to be sure that this is a possible thing within the communities of the Bay Area. Thank you.

Acting Chair Halsted asked: Are there any more speakers who want to speak? Seeing none I would ask for a motion to close the public hearing.

**MOTION:** Commissioner Gioia moved to close the public hearing, seconded by Commissioner Nelson. The motion carried by a voice vote with no abstentions or objections.

Commissioner Gioia commented: I am very pleased to see us go forward with this. I represent the Richmond, North Richmond area for the last 29 years so I understand that this is really an important issue to address in the context of sea level rise.

I am assuming that this process will include a very good discussion with all the stakeholders because how one defines impact, equity, environmental justice; there has been a lot of relatively new discussions about this ever since the passage of AB 32 and SB 32 and the cap-and-trade regulations and all of that.

I think the stakeholders will say that there has been a lot of new discussion and thinking about this whole issue. And so, the stakeholders will be very involved in this process and helping come up with this policy.

Ms. Torres replied: Yes, and I can let Lindy add to that but we have worked with a lot of groups and we will continue to do so.

Commissioner Gioia added: There are some provisions in law that talks about income differential, others that talk about disproportionate environmental impacts, disproportionate burdens; all of these are combined and related.

At the San Francisco Bay Restoration Authority and those of us who grappled with this issue; when we put the measure together there was discussion of income, sort of economic disparity but we didn't point out the environmental burden disparities. We want to capture both.

We want to capture environmental burden disparities, economic issues and other access issues.

Ms. Lowe reiterated: We will be guided by the 10 indicators that we have developed and then we always look at the land uses both existing and legacy land uses which gets to the pollution burdens when we look at the issue of social equity and environmental justice.

We have been working with a lot of great community members who are with us today. Only a few folks but we have a lot more in the room. We will continue to work with them on this process and have them guide us through it.

Commissioner Gioia continued: I see the 10 indicators. I don't see environmental burden and equity.

Ms. Lowe explained: So the way that environmental burden is addressed with the 10 indicators is we lay it over the other types of land uses. It is a layer itself and then contaminated lands or hazardous materials or other types of land uses such as refineries; those are all considered with those 10 indicators.

Commissioner Gioia added: And the definition of disadvantaged communities is ensuring that this concept is incorporated in this.

Ms. Lowe agreed: Absolutely.



Commissioner Zwissler spoke: One of the speakers made reference to when we look at the McAteer-Petris Act we should look at doing it once. I am curious on your comments on that and in particular you touched on the fact that this might open up the issue of knock-on effects of the hardening of the shoreline and how it might impact other communities. Some of those may be under-served communities and some of them may not.

I am curious as to what you're thinking is on how this opens those floodgates.

Ms. Lowe replied: I think that as we move through the process of this amendment we will be able to better identify those issues and it will help guide us to what begin to brief the Commission on with respect to coming forward with some type of legislation. Whether it is something with respect to the McAteer-Petris Act or it is some separate piece of legislation that ties back to the McAteer-Petris Act. We will have a better sense of this as we move through this process.

The Coastal Commission just went forward with similar update to their legislation and had legislation added so they could specifically and directly address environmental justice and equity.

I also think that we are ready to go forward with legislation on social equity and environmental justice. I am not so sure we are ready on the other issues to go forward until we are further along on the regional adaptation planning framework process.

You will be briefed along the way on this. We will keep you apprised as we go.

Mr. Goldbeck spoke: I totally agree with what Lindy just said. As someone who handles the legislative matters we are going to have to make the decisions of what is right to do when it would be preferable to do it all at once but unfortunately given our resources some of the things are going to have to happen sequentially. We are going to go through the process and determine what changes in governance are needed.

We need to go through the process and determine the right time to make the changes. This is something that we need to work out as we go through the process.

Commissioner Nelson commented: A number of places were identified where social equity issues are going to be relevant in our permitting process. I wanted to talk about connections with our planning process.

Traditionally, BCDC's involvement in planning has been very limited. We write special area plans for places like the San Francisco Waterfront and Richardson Bay and seaport plans and airport plans.

As we have gotten involved in more planning; issues of social equity have raised themselves. We haven't adopted guidance to help staff provide as a part of that process. It is really important as a Commission that we provide them guidance to help them in that effort. They are already doing that work. This is not planning work that we may do at some point in the future. This is planning work that we are doing right now.

This is another one of those reasons why this is an issue we need to address now. There are questions that we have a couple of years to deal with but Lindy and our staff have been doing this work for several years and have been doing a good job of incorporating some of these issues but have been doing it without guidance. It would be really helpful for us to formalize some of the good work they have already been doing.

There is other guidance beyond the McAteer-Petris Act on these social justice issues that informs what the staff has been doing but we haven't had that within the Bay Plan or the McAteer-Petris Act and that dramatically expanding planning responsibility that we are seeing because of sea level rise makes this a particularly important and an urgent issue.

Acting Chair Halsted commented: It seems to be that when I look at the maps of the affected areas it brings to my mind that we ought to have a way to trigger consideration of jurisdictional changes that are related to those maps.

I am aware that this is tough to do but we should be thinking about those triggers as we go along with this process. I would encourage doing that and there is urgency.

Commissioner Gibbs inquired about the 10 indicators: I would like to return to the questions that Commissioner Gioia was asking about the 10 indicators. I am not sure I followed the discussion or the rationale.

It seems to me that the primary and most important indicator of whether a community is environmentally disadvantaged is whether there are already a higher proportion than normal or disproportionate amount of what are considered environmental undesirable facilities.

So, this could be a sewage plant but it also happens that the transfer station for the solid waste collection is there. And it also happens that there may also be a refinery there.

It is not clear to me why that shouldn't be the primary, in fact, an over-weighted factor in triggering eligibility under our program for social justice considerations because you can imagine two communities at opposite ends of the Bay with a relatively equal social and economic indicators on these 10 qualities and yet if you don't have a very clear, very obvious criterion for the actual presence of existing environmentally undesirable or burdensome facilities that will not be a fair or equity-based decision. Can you help me understand?

Ms. Lowe replied: These indicators were developed in a project that we conducted in partnership with ABAG's Resilience Program, which is now a part of MTC. We identified these indicators with a significant group of environmental justice, social equity folks, public health folks, hazard mitigation people and these indicators are specific to individuals.

And how we use these indicators is that we identify not only their exposure to current and future flood risks but also what are those assets, both current and legacy assets that surround their communities.

That is how we combine the information because we have those data layers. Those aren't indicators about people, they are land-use or other types of data layers that we lay over these indicators and then we identify, the full suite of risks for these community members.

If you are next to a refinery that is a very different thing than being next to a wetland. If you have no transportation options around you that makes you vulnerable in a very different way than if you have access-to-a-vehicle problems. We combine these indicators with the assets and characteristics of the communities to determine what the specific vulnerabilities will be.

We will also say that we work with these indicators as well as other types of indicators so the care communities that the Air Quality Management District uses. We also use those indicators to tell us different things about the communities.

We use the MTC communities of concerns indicators. We combine the indicators depending on what it is we are looking at. We indicated that we always lay these indicators in with the other types of burdens that communities confront whether that is land-use burdens or lack of access; no hospitals around.

There is a way for us to be clearer about this and I take that point and we will in the amendment include that issue, absolutely.

Ms. Torres stated: We are working with Green Action to hold a contaminated lands forum. This forum will include DTSC, the Water Board, EPA, local planning jurisdictions and all the entities that are involved with regulating and working on contaminated lands.

The idea is to share information and to start that conversation among the different entities as to what each agency is doing and how we can further collaborate and make sure we are thinking about sea level rise and the impacts on the community and preparing for them.

Ms. Lowe added: Brenda just mentioned that maybe I didn't say we mapped them, I was saying, "layers." We actually map the data and that's how we identify it. I can post something for the Commission to look at that shows the maps that we have developed with these layers that identify areas that have been legacy-contaminated areas and hazardous material sites.

Contra Costa County was a great project for us to dig into on that issue because they have a number of those types of sites.

Commissioner Gibbs clarified his position: I would hope that when we have our final written policy guidelines in terms of determining eligibility or triggering an environmental justice determination that very high on that list of factors is the more of these facilities that you have in your neighborhood already the higher on the list you are for consideration of this.

It also strikes me that of all these factors and criteria maybe something like childhood asthma rates or something should be up there because if your neighborhood's childhood asthma is twice as much as all the surrounding communities something is going on and it is probably related to this.

It seems to me that we are getting a lot of indirect stuff but there are some very direct indicators that I'd like to see very high on the list.

Ms. Lowe replied: I think that there are two different things. These are indicators that increase your risk to flooding. There are indicators that identify the burdens of your community. We won't add to these indicators but absolutely in the amendment process we will include language that addresses those issues.

Commissioner McGrath shared some history with the group: Things can always be improved and I want to thank the community for bringing this to our attention. When I was at the Port of Oakland we settled a lawsuit with West Oakland Neighbors and we settled that for about four or five million dollars to put into reduction of diesel emissions.

By now over 25 million has been spent and diesel emissions are down by 75 percent. It is sometimes most important to hear the issue and begin and opportunities open up. That is what we will find with this.

Very specifically when this first came up in the first workshop I went to Bruce Wolfe the Executive Officer of the Regional Board and I said, Bruce we need to make sure that we are looking at all the closures and sea level rise. It was done immediately.

I want to thank the community and the staff for raising these issues. It is not always immediately apparent but sometimes a lot happens once you ring the bell. Thank you.

Commissioner Sears commented: The factors that we were looking at in the definition of a disadvantaged community actually pertain to Part B of the definition. And Part A really goes to areas disproportionately affected by environmental pollution and other hazards that can lead to negative public health effects exposure or environmental degradation.

So, I think you have very good language here that you can use and get away from that chart list of factors that distract all by focusing on Part B.

The point is really here and it is capturing it in a way that is much less sophisticated than the explanation that Lindy gave and sort of an easy way to summarize it.

Ms. Torres added: The only distinction I will make that the reason why both were included is that the state definition does not include race. Often income is used as a proxy for race. However, race is very important when we are talking about these issues as we learned from Katrina and other events.

Commissioner Gibbs stated: Thank you Commissioner Sears and I am additive not subtractive. So why don't we just develop a list of 10 criteria for A as well?

Acting Chair Halsted announced: Then we might move to a motion on this item.

**MOTION:** Commissioner Nelson moved approval of the staff recommendation, seconded by Commissioner Gioia.

**VOTE:** The motion carried with a vote of 14-0-2 with Commissioners Addiego, Butt, Gilmore, Gibbs, Gioia, McGrath, Nelson, Sartipi, Sears, Showalter, Vasquez, Techel, Zwissler and Acting Chair Halsted voting, "YES," no "NO," votes and Commissioners Galacatos and Brush abstaining.

**8. Closed Session on Pending Litigation: Point Buckler Club, LLC and John Donnelly Sweeney v. San Francisco Bay Conservation and Development Commission, et al., Solano County Superior Court Case No. FCS048136.** Acting Chair Halsted stated: Item 8 is a closed session regarding the pending litigation brought against BCDC and the Regional Water Quality Control Board by John Sweeney and Point Buckler Club, LLC. Therefore, I am now asking everyone to leave the room, except for Commissioners, our senior staff, The Chief of Enforcement and the Attorney General's staff, while we hold this session. We will let you know to rejoin us just as soon as we are finished. Please ensure that all electronic equipment is off, including your personal equipment, so that what is said in this room stays in this room.

Upon returning from closed session Acting Chair Halsted reported the Commission did not take any reportable action.

**12. Adjournment.** Upon motion by Commissioner Zwissler, seconded by Commissioner Sears, the Commission meeting was adjourned at 3:39 p.m. in memory of William Evers.